

REBUTTAL TO ARGUMENT AGAINST  
PROPOSITION 59

[REDACTED]

Mr. Wesley's skepticism of open government laws is understandable. Several years ago, when he sued his city council under the open meeting law alleging it had illegally used a closed session to discuss a topic not mentioned on the agenda, the court would not let him question the council members about what they had discussed behind closed doors.

The court concluded that because the law did not expressly authorize such questioning and because it contained other provisions protecting closed session discussions, government officials could not be asked about what they discussed even to obtain evidence for trial, and even if there was no other way of proving a violation of the law.

In other words, he lost because the court applied the general rule of access narrowly, and the exception allowing secrecy broadly—precisely what Proposition 59 would reverse.

**SUBJECT TO COURT  
ORDERED CHANGES**

As for privacy, the constitution has never been interpreted to protect the abuse of official authority or the wasting of public resources by anyone, and Proposition 59 will not create a screen for anyone to use in hiding fraud, waste or other serious misconduct.

On the contrary, Proposition 59 will add independent force to the state's laws requiring government transparency. It will create a window on how all public bodies and officials conduct the public's business, for well or ill, while sparing the dignity and reputations of ordinary people, public employees and even high officials who have done nothing to merit public censure or concern.

State Senator Mike Machado

Thomas W. Newton, General Counsel  
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John Russo, City Attorney  
City of Oakland

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